

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEALS No 136 TO 147 AND 200 OF 1999

in

SPECIAL CIVIL APPLICATIONS No 4820 TO 4830 of 1995

AND

SPECIAL CIVIL APPLICATION NO. 5404 OF 1991

AND

SPECIAL CIVIL APPLICATION NO. 9861 OF 1994

For Approval and Signature:

Hon'ble ACTG.CHIEF JUSTICE MR. C.K.THAKKAR and

MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

MANJIBHAI JESANGBHAI

Appearance:

M/S PATEL ADVOCATES for Appellants

Mr P H Pathak for respondents

CORAM : ACTG.CHIEF JUSTICE MR. C.K.THAKKAR and

MR.JUSTICE D.P.BUCH

Date of decision: 10/12/1999

ORAL JUDGEMENT

(per Thakker, Actg.C.J.)

Admitted. Mr P H Pathak, learned counsel appears for the respondents and waives service of notice of admission. In the facts and circumstances of the case, all the matters have been taken up for final hearing.

2. All these LPAs, arise out of similar judgments and orders passed in several Special Civil Applications. They were placed for admission but in view of the fact that the point is covered by a decision of the Division Bench in similar matters in State of Gujarat & Anr. v. Sendhaji S Thakor & Anr., 1999 (1) GLH 513, the matters are taken up for final disposal.

3. All the petitioners were working as daily wagers and they had filed petitions for regularising their services and extending all the benefits avail able to regular employees. The learned Single Judge was pleased to allow the petitions against which present LPAs are filed.

4. It is not in dispute by and between the parties that similar contentions were raised in Sendhaji Thakore's case, and the Division Bench, after considering arguments of both the sides and after referring to case law on the point, allowed the appeals and remanded matters to the learned Single Judge for fresh disposal in accordance with law.

5. In para 43 onwards, the following observations were made and directions have been issued:

"43. It was submitted on behalf of the employees that they are in service since several years and they were ordered to be regularised by the learned single Judge. If the appeals are allowed and the order passed by the learned single Judge, are set aside, the State authorities by treating the petitioners as daily wagers, terminate their services, it would cause immense hardship and serious prejudice would be caused to them and they would be deprived of their livelihood. We see considerable force in the said submission of the learned Counsel. We also cannot be oblivious of the fact that several matters were pending before the learned single Judge in remote past. In almost all matters, interim relief was granted protecting the service condition of the employees during the pendency of the petitions. In some other matters, applications were filed under Section 33-C(2) of the Industrial Disputes Act

before the Industrial Tribunal which were allowed.

44. We are setting aside the orders passed by the learned single Judge and remanding the matters to the learned single Judge for fresh disposal in accordance with law. If during the pendency of petitions before the learned single Judge, interim relief will not be granted, irreparable loss and great prejudice will be caused to the employees and their services are likely to be terminated. It is, therefore, clarified that during the pendency and final disposal of petitions by the learned single Judge, no action will be taken by the authorities which would prejudicially affect the workmen.

45. In the result, Letters Patent Appeals are allowed the orders passed by the learned single Judge are set aside and the matters are remanded to the learned single Judge for deciding in accordance with law on their own merits without being influenced in any manner by observations made in the orders passed by the learned single Judge as well as by the observations made by us hereinabove. It is, however, directed that during the pendency and final disposal of all the petition, the authorities will neither terminate the services of the workmen nor change service conditions to their detriment. It is also clarified that it is open to the parties to take all contentions available to them at the hearing of petitions. The parties are at liberty to request the learned single Judge to take up the matters for early hearing. In the facts and circumstances of the case, there shall be no order as to costs.

6. Since the points agitated in the present LPAs are finally concluded by a decision of the Division Bench in Sendhaji Thakore, all these Letters Patent Appeals also deserve to be allowed and are accordingly allowed. The judgments and orders passed by the learned Single Judge are set aside and the learned Single Judge will now decide all petitions afresh in accordance with law. It is also directed that the department will not change service conditions of the employees during the pendency of the petition before the learned single Judge and they will continue to get all benefits which they were getting at present. In the facts and circumstances of the case. No order as to costs.

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msp.